

EXHIBIT 16

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANIBAL RODRIGUEZ, JULIEANNA
MUNIZ, ELIZA CAMBA, SAL CATALDO,
EMIR GOENAGA, JULIAN SANTIAGO,
HAROLD NYANJOM, KELLIE NYANJOM,
AND SUSAN LYNN HARVEY,
INDIVIDUALLY AND ON BEHALF OF ALL
OTHERS SIMILARLY SITUATED,

PLAINTIFFS,

vs.

NO. 3:20-CV-04688

GOOGLE LLC,

DEFENDANT.

_____ /

VIDEOTAPED DEPOSITION OF SUSAN HARVEY

VIA REMOTE COUNSEL VIDEOCONFERENCE

THURSDAY, OCTOBER 27, 2022

VOLUME I

STENOGRAPHICALLY REPORTED BY:

MEGAN F. ALVAREZ, RPR, CSR No. 12470

JOB NO. 5516967

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1 isn't installed on my phone right now. It -- it 03:52:52
2 was. I went in and used it once or twice. I didn't 03:52:55
3 really like it, and I went out of it. 03:52:59
4 Q. Did you at least look at the PicCollage 03:53:02
5 privacy policy? 03:53:06
6 A. The things that it said, yes. 03:53:06
7 I want to state this, though: Regardless 03:53:18
8 what it said, why did Google promise me they weren't 03:53:18
9 going to take it? They should have rejected the 03:53:23
10 information. 03:53:25
11 MR. LEE: Just wait for him to ask the 03:53:26
12 next question. Okay. You're doing fine. 03:53:28
13 THE WITNESS: Okay. 03:53:31
14 BY MR. MATEEN: 03:53:31
15 Q. I'm going to introduce a new exhibit. 03:53:38
16 (Whereupon Exhibit 18 was marked for 12:06:25
17 identification.) 12:06:25
18 BY MR. MATEEN: 03:53:49
19 Q. I've marked this as Exhibit 18. This is 03:53:49
20 the privacy policy for PicCollage as of November 03:54:02
21 2020. 03:54:07
22 MR. LEE: Just give -- give us a moment. 03:54:10
23 We're having some tech issues. Neither of us have 03:54:12
24 the exhibit up yet. 03:54:13
25 MR. MATEEN: No worries. 03:54:15

1 MR. LEE: Yeah. No, she's on the right 04:02:47

2 page now. Yeah, if you could read it out loud, that 04:02:48

3 would be helpful. Thank you. 04:02:52

4 BY MR. MATEEN: 04:02:53

5 Q. "We collect this information from you to 04:02:53

6 improve our app's overall performance and the 04:02:55

7 service we provide. We analyze this information 04:02:58

8 with tools provided by third-party companies. These 04:03:00

9 companies include Flurry, Facebook, Firebase, 04:03:03

10 Google, Amplitude, Fabric." 04:03:06

11 Did you read this line when you downloaded 04:03:10

12 PicCollage? 04:03:13

13 A. Yeah, I -- I read the privacy policies. 04:03:13

14 What does that have to do with mine and 04:03:19

15 Google's agreement? 04:03:21

16 Q. Can you repeat that? I didn't hear you. 04:03:24

17 A. What does that have to do what Google 04:03:26

18 promised me? There's an off button. They weren't 04:03:29

19 supposed to be taking it. They should have rejected 04:03:32

20 information. 04:03:36

21 Q. Were you aware that PicCollage uses Google 04:03:36

22 and Firebase for analytic services? 04:03:42

23 A. As I stated before, if I make an agreement 04:03:47

24 with Google that tells them don't take my 04:03:50

25 information, don't process it, don't store it, don't 04:03:53

1 no, I haven't. It just makes it worse. 05:15:53

2 BY MR. MATEEN: 05:16:06

3 Q. Ms. Harvey, are you claiming a medical 05:16:55

4 injury in this lawsuit? 05:16:57

5 A. No. I -- I stated that was from before. 05:16:58

6 But this made it -- this has added on to it because 05:17:01

7 I didn't realize I'd been lied to the whole time. 05:17:05

8 Q. Since finding out about the actions 05:17:44

9 alleged in this lawsuit, have you changed any of 05:17:47

10 your actions? 05:17:50

11 MR. LEE: Vague. 05:17:55

12 THE WITNESS: Which actions would that be? 05:17:57

13 I don't understand. 05:17:59

14 BY MR. MATEEN: 05:18:02

15 Q. I can reask it. 05:18:02

16 After you found out about the actions that 05:18:16

17 you allege in this lawsuit, did you delete any apps? 05:18:18

18 A. I'm sure there's been apps that have went 05:18:23

19 off my phone because I switched phones. But I -- I 05:18:26

20 don't know. Maybe if I didn't use something 05:18:29

21 anymore, I would take it off. But I -- I was sort 05:18:31

22 of curious what -- what was going to be find out. 05:18:38

23 That's why I seeked attorneys. 05:18:41

24 Q. Did you investigate which apps use 05:18:49

25 Google Analytics for Firebase? 05:18:52

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1 A. That's not for me to do. 05:18:54

2 Q. Who's that for? 05:19:02

3 A. That's for the attorneys and experts, not 05:19:03

4 me. 05:19:05

5 I don't know what Google's practice is. I 05:19:11

6 don't know who they talk to. I don't know which 05:19:12

7 ones they use. Why should I know that information? 05:19:13

8 I'm not trying to get their information. My 05:19:15

9 information is one that was given out. 05:19:17

10 Q. Sitting here today, do you know if any app 05:19:23

11 you've ever used uses Google Analytics for Firebase? 05:19:27

12 A. I'm sure quite a bit of them do. 05:19:32

13 Q. If you knew which apps use 05:19:34

14 Google Analytics for Firebase, would you delete 05:19:36

15 them? 05:19:39

16 A. Why don't we cut this short? Why doesn't 05:19:39

17 Google just fix the button? Then I wouldn't have to 05:19:42

18 delete those apps because I enjoy playing them. 05:19:44

19 Then there wouldn't be a problem, right? Because 05:19:48

20 they said they wouldn't do it in the first place, so 05:19:50

21 there shouldn't be a problem here. 05:19:53

22 Q. If, as you say Google, does not fix the 05:19:54

23 button, would you delete those apps? 05:19:57

24 A. I can't see a world that would happen in. 05:19:58

25 Q. You can't see a world where what would 05:20:02

1 happen in? 05:20:05

2 A. Google would keep taking the information 05:20:06

3 and not fix it. That's illegal. You can't take 05:20:08

4 information and tell somebody that you're not going 05:20:12

5 to. 05:20:14

6 I don't want anybody knowing what I do on 05:20:21

7 my phone. 05:20:23

8 Q. Imagine that the court in this case rules 05:20:33

9 that Google doesn't have to change its behavior, it 05:20:35

10 can keep doing what it's doing. 05:20:41

11 Would you then delete those apps? 05:20:44

12 A. I can't see the court ruling that. I 05:20:47

13 don't see that happening. Because they made a 05:20:49

14 statement that they weren't going to do it and I 05:20:54

15 would be in control, and it's a lie. 05:20:56

16 Q. Would you ever delete those apps? 05:21:06

17 MR. LEE: Objection. Vague. 05:21:09

18 THE WITNESS: If I didn't want to use 05:21:11

19 them. 05:21:13

20 BY MR. MATEEN: 05:21:16

21 Q. You wouldn't want to use them? 05:21:17

22 A. If I did not want to use them, I might 05:21:19

23 delete them. 05:21:21

24 But the real thing that needs to be fixed 05:21:22

25 is Google's promises. Don't make a promise if you 05:21:24

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1 can't keep that promise. You can't figure out how 05:21:27
2 to do it, that's not my fault. They shouldn't have 05:21:30
3 made a promise in the first place. 05:21:34

4 Q. So I understand that you believe that a 05:21:35
5 court would not do this. But just imagine for the 05:21:39
6 possibility that you were wrong about what is and 05:21:44
7 isn't illegal and the court rules that from Google 05:21:47
8 doesn't have to change it's behavior. 05:21:52

9 Would you then delete those apps? 05:21:54

10 A. I can't believe that would ever happen. 05:21:57

11 Q. Ms. Harvey, I understand that you cannot 05:22:00
12 believe that it will happen, but imagine that it 05:22:01
13 does. 05:22:05

14 A. I -- I can't imagine that. Why -- why 05:22:06
15 would that happen? You can't make a promise, break 05:22:09
16 that promise, make money off people's data when they 05:22:12
17 said that they weren't going to do that, and -- and 05:22:17
18 it be okay. It's not okay. 05:22:19

19 Q. Ms. Harvey, for example, your last case 05:22:23
20 was dismissed on statute of limitations grounds. 05:22:25
21 Let's say that this case gets dismissed on statute 05:22:28
22 of limitations grounds. 05:22:32

23 In that case, would you delete these apps 05:22:34
24 off your phone? 05:22:38

25 A. It's not going to get dismissed for 05:22:40

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1 statute of limitations. So I don't even have to 05:22:42
2 consider that, correct? 05:22:45
3 Q. Would you ever delete your Google account? 05:22:48
4 MR. LEE: Objection. Vague. 05:22:52
5 THE WITNESS: What other option do I have 05:22:55
6 on an Android device so I can use the Play Store? 05:22:57
7 MR. LEE: Can I get a time check? 05:23:11
8 THE VIDEO OPERATOR: 6:23. 05:23:19
9 MR. LEE: I'm sorry? 05:23:20
10 THE WITNESS: Six hours, 23 minutes. 05:23:22
11 MR. LEE: Thank you. 05:23:29
12 BY MR. MATEEN: 05:23:29
13 Q. Ms. Harvey, since filing this case, have 05:23:30
14 you used any apps differently than you did before? 05:23:33
15 A. No. I'm trying to find out what's going 05:23:38
16 on. It's being investigated right now. They're 05:23:40
17 checking everything out. So if I stopped using 05:23:46
18 those things, then nothing would be found out, would 05:23:49
19 it? 05:23:52
20 Q. Have you interacted with anyone in your 05:23:53
21 life any differently than before you filed your 05:23:55
22 lawsuit? 05:23:57
23 MR. LEE: Objection. Vague. 05:23:58
24 THE WITNESS: With who? I don't 05:24:02
25 understand. 05:24:04

1 BY MR. MATEEN: 05:24:05

2 Q. Have you communicated with anybody you 05:24:11

3 know differently? 05:24:15

4 MR. LEE: Objection. Vague. 05:24:17

5 BY MR. MATEEN: 05:24:18

6 Q. Have you communicated with anybody you 05:24:23

7 know differently since filing your lawsuit? 05:24:24

8 MR. LEE: Objection. Vague. 05:24:27

9 BY MR. MATEEN: 05:24:27

10 Q. Ms. Harvey, you can answer to the extent 05:24:36

11 that you are able to. 05:24:37

12 A. Who? 05:24:39

13 Q. Any person. 05:24:41

14 A. People that I know? 05:24:42

15 Q. Yes. 05:24:43

16 A. Why would I do that? They didn't do it. 05:24:44

17 They didn't make me a promise and break it. 05:24:48

18 Q. Have you taken any steps to protect 05:24:55

19 yourself from the alleged misconduct from Google? 05:24:57

20 A. I seeked a lawyer's advice. My 05:25:01

21 Web & App Activity is off. I was thinking the 05:25:06

22 information wasn't being collected and it was. 05:25:07

23 So, yes, I seeked a lawyer's advice. 05:25:10

24 Q. Since -- 05:25:13

25 THE VIDEO OPERATOR: Excuse me. This is 05:25:16

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1 the videographer. I made a mistake. It's 6:13. 05:25:16

2 Sorry. 05:25:18

3 MR. MATEEN: Thank you. 05:25:21

4 MR. LEE: We're going backwards in time? 05:25:22

5 Jesus. 05:25:24

6 BY MR. MATEEN: 05:25:26

7 Q. Since filing this suit, other than talking 05:25:29

8 to your lawyer, have you taken any steps to protect 05:25:32

9 your privacy against Google's alleged misconduct? 05:25:35

10 A. Well, they weren't supposed to be doing it 05:25:39

11 in the first place, so what could I take? What 05:25:40

12 steps could I take? 05:25:43

13 Q. Have you tried to take any steps? 05:25:46

14 A. What steps would those be? I still have 05:25:47

15 my Samsung phone. It's still Android. Google's 05:25:50

16 still doing it. And they said they wouldn't but 05:25:55

17 they are. 05:25:57

18 Web & App Activity has two options: On or 05:25:58

19 off. Mine was off, period. I did not turn that on. 05:26:02

20 So I'm a little bit confused by that. 05:26:05

21 But I seeked an attorney's advice and 05:26:08

22 we're here now. So I think I have taken steps. I 05:26:12

23 want it to stop. I want the button fixed. And I 05:26:16

24 don't want them to have my information. 05:26:20

25 Q. Have you made the -- have you made any 05:26:24

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1 attempts to learn a different operating system? 05:26:25

2 A. I've explained that extensively why I have 05:26:30

3 to use Android with my father having dementia. 05:26:33

4 Q. Have you made any attempts to sign out of 05:26:42

5 any of your Google accounts on your Android device? 05:26:44

6 A. Now, why would I do that? Google's not 05:26:49

7 taking information, right? So why would I have to 05:26:51

8 sign out? 05:26:53

9 Q. You've alleged misconduct on the part of 05:27:01

10 Google and specifically that Google is taking 05:27:04

11 information. 05:27:07

12 And so I'm asking: After you filed your 05:27:08

13 complaint, have you taken any efforts to log out of 05:27:12

14 your Google accounts on your Android device? 05:27:18

15 A. Why would I log out? Is that so there's 05:27:21

16 no records of anything? It's already been done. 05:27:25

17 Q. Do you use your Samsung phone more or less 05:27:37

18 than when you filed this case? 05:27:42

19 MR. LEE: Mr. Mateen, she's -- she's 05:27:44

20 answered this question like six or seven times now. 05:27:44

21 MR. MATEEN: Not this specific one. 05:27:47

22 BY MR. MATEEN: 05:27:49

23 Q. Ms. Harvey, you can answer. 05:27:49

24 A. So that you understand, I love my phone. 05:27:50

25 I don't love Google's business practices and their 05:27:52

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1 promises that they don't stand by. 05:27:56

2 Why wouldn't I use my phone that I 05:28:02

3 absolutely love? Why doesn't Google just stop doing 05:28:04

4 what they say they're not going to do? 05:28:08

5 BY MR. MATEEN: 05:28:11

6 Q. Have you tried to tell your dad to use his 05:28:12

7 phone differently or -- 05:28:17

8 A. I've turned my dad's information off. 05:28:20

9 It's set the exact same way. 05:28:22

10 And to tell you the truth, do you know 05:28:25

11 what dementia is? 05:28:28

12 My dad's used that Samsung Galaxy 9. 05:28:34

13 That's why we got the same phone, so he wouldn't 05:28:38

14 have to relearn everything. It's impossible. 05:28:42

15 Q. Did you log your dad out of a Google 05:28:48

16 account on his Android phone? 05:28:51

17 A. No. I turned Web & App Activity off. 05:28:53

18 Q. Have you warned anyone in your life of 05:29:00

19 Google's privacy violations after filing this suit? 05:29:06

20 A. Not necessarily like you're stating. But 05:29:11

21 if somebody I know has Web & App Activity off, I let 05:29:14

22 them know, "Hey, I don't think that button works." 05:29:19

23 Q. Are you testifying that the harm you 05:29:27

24 allege is ongoing? 05:29:29

25 A. My information's still being taken. It's 05:29:31

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1 still being saved. It's still being pulled 05:29:35

2 together. And there's still advertisements coming 05:29:38

3 out there. And it's still being gotten rid of, so 05:29:42

4 I'm thinking it's still being done. 05:29:46

5 Q. Are you currently suffering a privacy 05:29:49

6 violation? 05:29:52

7 MR. LEE: Objection to the form to the 05:29:53

8 extent it calls for a legal conclusion. 05:29:55

9 Answer if you can understand his question. 05:29:56

10 THE WITNESS: Does the button work or 05:30:00

11 doesn't it? If it doesn't work, that's a privacy 05:30:01

12 violation. 05:30:04

13 Why can't Google just say what they -- do 05:30:12

14 what they say they're going to do? 05:30:14

15 MR. MATEEN: Ms. Harvey, thank you for 05:30:23

16 your time. That's all we have for you today. 05:30:24

17 THE WITNESS: Okay. 05:30:27

18 MR. MATEEN: I know it's about been a long 05:30:28

19 day, so I appreciate you bearing with us all. 05:30:29

20 MR. LEE: Let me get five minutes just to 05:30:33

21 consult with my team. I may not have any questions, 05:30:35

22 but I just want to check. Okay? 05:30:39

23 MR. MATEEN: No problem. 05:30:41

24 THE VIDEO OPERATOR: Going off the record. 05:30:42

25 The time is 5:30 p.m. 05:30:42

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CERTIFICATE OF REPORTER

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

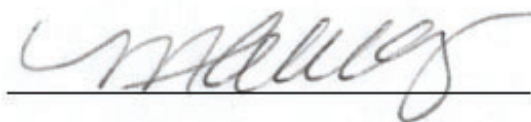
That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were administered an oath; that a verbatim record of the proceedings was made by me using machine shorthand, which was thereafter transcribed under my direction; and that the foregoing is an accurate transcription thereof.

Further, that if the foregoing pertains to the original transcript of a deposition in a federal case, before completion of the proceedings, review of the transcript [X] was [] was not requested.

I further certify that I am neither financially interested in the action, nor a relative or employee of any attorney of any party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.

DATED: November 11, 2022



MEGAN F. ALVAREZ

CSR No. 12470, RPR